

**WARRICK COUNTY COUNCIL ORDINANCE NO. 2018-04**

**AN ORDINANCE OF THE WARRICK COUNTY COUNCIL PLEDGING THE COUNTY'S SHARE OF LOCAL INCOME TAX (FORMERLY KNOWN AS THE COUNTY ECONOMIC DEVELOPMENT INCOME TAX) TO THE PAYMENT OF DEBT SERVICE ON CERTAIN GENERAL OBLIGATION BONDS**

**WHEREAS**, the Warrick County Council (the "Council"), as the fiscal body of Warrick County, Indiana (the "County"), has given consideration to projects and improvements at certain County-owned facilities including without limitation: (i) renovations, improvements and upgrades to the existing County Courthouse and Judicial Center, as more particularly identified and described in the report from Energy Systems Group, Inc., dated February 8, 2018, including, but not limited to, certain structural, electrical, mechanical, plumbing, HVAC and technology equipping and improvement projects; (ii) renovations, improvements and upgrades to the County's existing historic jail; (iii) acquisition, improvement and equipping projects for the County Sheriff Department, including, without limitation, certain technology upgrades to the computer system and E911 system; and (iv) any other miscellaneous renovations, improvements or equipping projects related to the foregoing items (collectively, the "Project"); and

**WHEREAS**, in order to provide funds to pay for costs of the Project, together with incidental expenses incurred in connection with or on account of the issuance of the Bonds, including any capitalized interest thereon, the Council previously adopted Ordinance No. 2018-02, on March 8, 2018, authorizing the issuance of general obligation bonds of the County in an original aggregate principal amount of not to exceed Seven Million Four Hundred Thousand Dollars (\$7,400,000) (the "Bonds"); and

**WHEREAS**, the County has imposed a county economic development income tax on the adjusted gross income of County taxpayers pursuant to Indiana Code 6-3.5-7, which law has been repealed and codified at Indiana Code 6-3.6 for the purpose of consolidating all local income taxes into a single article and reclassified as the economic development purposes and certified shares components of additional revenues derived from the expenditure rate tax under Indiana Code 6-3.6 (referred to herein as "LIT" and the revenues derived therefrom as "LIT Revenues"); and

**WHEREAS**, the Council has determined that it will be of public utility and benefit to pledge the County's distributions of LIT Revenues to secure, in part, the payment of the Bonds, and the Council now desires to pledge the County's distributions of LIT Revenues to pay a portion of the debt service due on the Bonds as set forth herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL, AS FOLLOWS:**

Section 1.    Pledge of LIT Revenues. Pursuant to Indiana Code 5-1-14-4 and Indiana Code 6-3.6-10-6, the Council, on behalf of the County, hereby pledges and assigns the County's distributions of LIT Revenues to the payment of a portion of the debt service due on the Bonds in the amount of \$200,000 per year (such amount, the "2018 LIT Pledge") for a term of years not less than the term of the Bonds. The 2018 LIT Pledge shall be effective as set forth in Indiana

Code 5-1-14-4 without the necessity of filing or recording this Ordinance or any other instrument except in the records of the County. The 2018 LIT Pledge set forth herein shall automatically terminate upon the earlier of the final maturity or redemption in full of the Bonds. The 2018 LIT Pledge shall be a first charge against the County's distributions of LIT Revenues. The County has not pledged or otherwise encumbered its LIT Revenues, and there are no prior liens, encumbrances or other restrictions on the LIT Revenues or on the County's ability to pledge the LIT Revenues to the payment of the Bonds.

Section 2.     Issuance of Parity Obligations. The County reserves the right to authorize and issue bonds, enter into leases or incur other obligations entitled to the pledge of LIT Revenues, in whole or in part, or any combination thereof, and otherwise pledge the County's LIT Revenues to secure bonds, lease rental payments or other obligations ranking on a parity with the 2018 LIT Pledge (such additional bonds, lease rental payments or other obligations, the "Parity Obligations"). The authorization and issuance of Parity Obligations shall be subject to the following conditions precedent:

- (a) All payments due on the Bonds and all payments on any outstanding Parity Obligations payable from LIT Revenues shall be current to date in accordance with the terms thereof, with no payment in arrears.
- (b) As of the time of issuance of the proposed Parity Obligations, to the extent that any other Parity Obligations secured by one or more debt service reserve funds shall be outstanding, the balance in such debt service reserve funds shall be at least equal to the respective reserve requirements for such other outstanding Parity Obligations; provided, however, this condition shall be deemed satisfied if any required amount is to be provided from the proceeds of the proposed Parity Obligations or other funds of the County;
- (c) The County shall have received a certificate prepared by an independent, qualified accountant or feasibility consultant certifying the amount of the LIT Revenues estimated to be received in each succeeding year shall be at least equal to one hundred twenty-five percent (125%) of the 2018 LIT Pledge and the debt service or lease rental requirements of any outstanding Parity Obligations and the proposed Parity Obligations for each respective year during the remaining term of the Bonds, any outstanding Parity Obligations and the proposed Parity Obligations. Notwithstanding the foregoing, any proposed Parity Obligations secured by a property tax levy under Indiana Code 36-1-10-17, a special benefits tax levy under Indiana Code 36-7-14-27, or by a pledge of any other property taxes of general applicability, or some combination of the foregoing, may be issued or entered into without meeting the foregoing coverage requirements of this subsection (c).
- (d) Payments of any Parity Obligations payable from the LIT Revenues shall be payable semiannually on January 15 and July 15 of each year.



The terms and conditions of any Parity Obligations shall be set forth in the ordinance or resolution authorizing such Parity Obligations. The County shall approve and confirm the figures and estimates set forth in the above-described certificate in any resolution or ordinance authorizing the proposed Parity Obligations.

The County may issue obligations payable from LIT Revenues on a junior and subordinate basis to the 2018 LIT Pledge and any other outstanding Parity Obligations. However, any such junior and subordinate obligations payable from LIT Revenues shall be payable semiannually on January 15 and July 15.

Section 3. No Repeal. So long as the Bonds remain outstanding, the Council covenants that it will take no action to rescind or repeal LIT, to reduce the LIT rate or to take any action that would result in the County receiving a smaller distribution of LIT Revenues than the distribution of LIT Revenues to which it was entitled to receive on the effective date of this Ordinance.

Section 4. Authorization of Other Actions. Each of the Board of Commissioners of the County, the members of the Council, the County Auditor, the County Treasurer and any other officer, employee or agent of the County is hereby authorized and directed, for and on behalf of the County, to execute and deliver any contract, agreement, certificate, instrument or other document and to take any action as such person determines to be necessary or appropriate to accomplish the purposes of this Ordinance, such determination to be conclusively evidenced by such person's execution of such contract, agreement, certificate, instrument or other document or such person's taking of such action.

Section 5. Severability. If any part of this Ordinance shall be adjudged to be invalid by a court of proper jurisdiction, it shall be conclusively presumed that the Council would have passed the remainder of this Ordinance without such invalid part.

Section 6. Repeal of Conflicting Ordinances. All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed.

Section 7. Effective Date. This Ordinance shall be in full force and effect from and after its adoption by the Council and upon compliance with the procedures required by law.

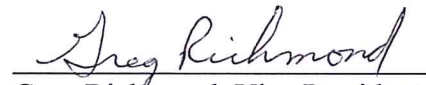
DULY PASSED and ADOPTED on this 3 day of May, 2018, by the Warrick County Council, as fiscal body of Warrick County, Indiana, by a vote of 6 in favor, 1 opposed, and 0 abstaining.

WARRICK COUNTY COUNCIL

  
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Gary Meyer, D.D.S., President

  
\_\_\_\_\_  
Charles R. Christmas

  
\_\_\_\_\_  
Paul Rudolph


  
\_\_\_\_\_  
Greg Richmond, Vice President

  
\_\_\_\_\_  
David Hachmeister

  
\_\_\_\_\_  
Brad Overton

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Ted Metzger

ATTEST:

  
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Deborah K. Stevens, Auditor  
Warrick County, Indiana